

Message Text

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ORIGIN EA-10

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FM SECSTATE WASHDC

TO AMEMBASSY JAKARTA

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E.O. 11652: N/A

TAGS: BDIS, ID

SUBJECT: CAMEO-NIXA TRADE COMPLAINT

REFS: A) JAKARTA 6391 B) STATE 114887

1. NATHANIEL GUNN, ACCOMPANIED BY AIDE FROM SENATOR EAGLETON'S OFFICE, CALLED AT EA/IMS JUNE 6 AFTER MEETING WITH ADIWOSO AT GOI EMBASSY.

2. GUNN CLARIFIED THAT HIS CONTRACT IS WITH A KIN TAK HONG IN HONG KONG TO SUPPLY 60,000 TONS AT 400 DOLS A TON. KIN TAK HONG HAS CONTRACT WITH INDAUS DEVELOPMENT CORP TO SUPPLY SAME AMOUNT AT 415 DOLS AT TON. L/C OPENED, HOWEVER, IN CAMEO-NIXA'S FAVOR BY P.T. PERTANI, SAID TO BE QUASI-GOVERNMENTAL CONSIGNEE. CAMEO-NIXA CONTRACT WITH KIN TAK HONG CONTAINS NO PENALTY CLAUSE.

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3. GUNN HAS TWO PROBLEMS. FIRST SHIPMENT OF 10,000 TONS UREA LEFT APRIL 14 BY CHARTERED SHIP (GRAND UNITY) FOR SURABAYA, WHERE IT WAS TO UNLOAD WHOLE CARGO. SHIP CAPTAIN GAVE REQUIRED 96-HOUR ADVANCE NOTICE OF ARRIVAL TO SURABAYA

HARBOR MASTER, RECEIVED ASSURANCE THAT BERTH WAS AVAILABLE, AND ARRIVED IN PORT ONLY TO FIND ABOUT 20 SHIPS AWAITING BERTHS. SHIP HELD AT SURABAYA FOR 12 DAYS WITHOUT GETTING

BERTH, THEN INSTRUCTED TO GO TO BANJUWANGI, WHERE IT HAS BEEN SINCE MAY 23. SHIP HAS JUST BEGUN UNLOADING AT BANJUWANGI, BUT AT VERY SLOW RATE OF 200 TONS A DAY. DEMURRAGE CHARGES HAVE BEEN ACCUMULATING FOR GUNN'S ACCOUNT. GUNN SAID HE HAS TELEXED DEPT OF TRADE, INDAUS, AND PERTANI IN AN EFFORT TO GET ACTION, BUT HAS RECEIVED NO REPLY. GUNN HAS ALREADY RECEIVED PAYMENT FOR THIS SHIPMENT.

4. GUNN'S SECOND PROBLEM IS LARGER AND INVOLVES 50,000 TONS UREA YET TO BE SHIPPED UNDER CONTRACT. HE DOES NOT KNOW IF CONTRACT IS NOW BROKEN OR "SUSPENDED". EITHER WAY, HE IS COMMITTED TO BUY REMAINING UREA FROM THE HIS U.S. SUPPLIERS AT PRICE OR PRICES CONSIDERABLY ABOVE CURRENT MARKET PRICE AND WOULD STAND TO LOSE CONSIDERABLY IF GOI REFUSED TO ACCEPT REMAINING SHIPMENTS AND HE HAD TO FLOG UREA FOR WHATEVER HE COULD GET. NOT COUNTING DEMURRAGE CHARGES, HE WOULD PROBABLY JUST BREAK EVEN IF HE ACCEPTED 365 DOLS PRICE ALLEGEDLY DICTATED BY GOI TRADE DEPT AND WAS ALLOWED TO SHIP 50,000 TON BALANCE.

5. GUNN'S CASE MAY BE FLAWED BY HIS LATE SHIPMENT (ON APRIL 14) OF UREA. DOCUMENTS HE PRESENTED SUGGEST AT ONE TIME HE WAS SUPPOSED TO SHIP BEFORE MARCH 1.

6. GUNN HAS BROUGHT HIS PROBLEMS TO ATTENTION SENATORS SYMINGTON AND EAGLETON AND CONGRESSMAN TAYLOR.

7. ADIWOSO REPORTEDLY SAID HE WOULD TELEPHONE JAKARTA AND PROVIDE REPLY WITHIN TEN DAYS ON WHAT MIGHT BE DONE TO RESOLVE MATTERS.

8. GUNN HAS PROPOSED ALTERNATE SOLUTIONS. IF, AS
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EMBASSY'S 6391 AND STANGEL'S MAY 8 REPORT SUGGEST, GOI PHYSICALLY UNABLE HANDLE ANY MORE UREA IMPORTS BECAUSE OF LACK OF COVERED STORAGE SPACE AND IT REALLY DESIRES THAT NO MORE UREA BE IMPORTED FOR INDEFINITE PERIOD, GUNN PROPOSES THAT CARGO NOW BEING SLOWLY OFFLOADED FROM GRAND UNITY BE ASSIGNED BACK TO HIM QUICKLY SO THAT HE CAN SELL IT AS "LIQUIDATED DAMAGES" TO COMPENSATE HIM FOR HIS PROSPECTIVE LOSSES FROM BREACHED OR DISRUPTED CONTRACT. (GUNN OF COURSE WILL BE INCREASINGLY DISINTERESTED IN THIS SOLUTION AS AMOUNT OF CARGO STILL ON BOARD DECLINES).

9. IF GOI STILL WISHES TO PERMIT SHIPMENTS UNDER CAMEO-NIXA CONTRACT, BUYERS MUST FIRST ACCEPT DEMURRAGE CHARGES NOW ACCRUING ON SHIPMENT OFF BANJUWANGI AND GIVE SATISFACTORY ASSURANCES TO VESSEL OWNER THAT HE WILL BE PAID.

IF THIS IS DONE, 50,000 TONS REMAINING UNDER CONTRACT COULD BE SHIPPED TO BONDED WAREHOUSE IN U.S., WITH TITLE THEN PASSING TO BUYERS AS ALREADY PROVIDED FOR IN CONTRACT AND WITH DRAWDOWNS FOR OCEAN SHIPMENT OCCURRING AS INDONESIA ABLE TO ACCEPT THEM. OR, SHIPMENTS COULD BE RESUMED IN NEAR FUTURE ON 10,000-TON BIMONTHLY SCHEDULE AS ORIGINALLY CONTRACTED. IT WOULD ALSO APPEAR GUNN UNWILLING TO DISCUSS ANY PRICE RENEGOTIATION UNTIL DEMURRAGE CHARGES ACCEPTED BY BUYERS TO SATISFACTION OF SHIP OWNER.

10. GUNN RIDICULED SIREGAR'S RESPONSE THAT HE UNAWARE OF GUNN. HE PRESENTED COPY OF JANUARY 1975 LETTER FROM DIRECTOR GENERAL OF TRADE MUSKITA TO P.T. PERTANI REFERRING TO PERTANI'S L/C OPENED IN FAVOR OF CAMEO-NIXA ACCOUNT. GUNN ALSO AMAZED AT SIREGAR'S BLAND ASSERTION THAT ARRANGEMENTS MADE BY INDONESIAN IMPORTERS WITH THEIR UREA SUPPLIERS ABROAD WERE NOT BUSINESS OF TRADE DEPT. WE ARE, TOO. IF AUTHORIZATIONS WERE CANCELLED, THEN SOME GOI AGENCY, PRESUMABLY TRADE DEPT, HAD TO HAVE ISSUED THEM. SINCE FOREIGN SUPPLIERS MADE THEIR COMMITMENTS TO ACQUIRE UREA ON BASIS GOI AUTHORIZATIONS, GOI ISSUING AGENCY MUST BEAR SOME RESPONSIBILITY FOR PROBLEMS OF FOREIGN SUPPLIER CONTRACTORS CAUSED BY CANCELLATION OF LIMITED OFFICIAL USE
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AUTHORIZATIONS. MOREOVER, IF AS GUNN ALLEGES, DEPT OF TRADE INSTRUCTED INDAUS TO INSIST ON A LOWER PRICE, IT WOULD SEEM TO BE RESPONSIBLE FOR CAUSING A BREACH OF CONTRACT.

11. EMBASSY REQUESTED TO CHECK WITH INDAUS DEVELOPMENT CORP LTD (12 JALAN IMAM BONJOL) AND WITH P.T. PERTANI (JALAN PASAR MINGGU) TO DETERMINE 1) HOW THEY REGARD STATUS OF CAMEO-NIXA CONTRACT, 2) WHETHER THEY WISH IN EFFECT TO TERMINATE IT AND ARE WILLING TO ASSIGN TITLE TO DWINDLING GRAND UNITY CARGO BACK TO CAMEO-NIXA, OR 3) WHETHER THEY WISH TO KEEP CONTRACT IN FORCE ON TERMS TO BE RENEGOTIATED WITH GUNN.

12. SITUATION MAY HAVE UNFORTUNATE EFFECT OF SOURING MORE CONGRESSIONAL PERCEPTIONS OF INDONESIA AND WOULD RESULT IN FURTHER DISILLUSIONMENT BY U.S. BUSINESSMEN. EMBASSY IS THEREFORE REQUESTED TO CLARIFY DEPT OF TRADE'S ROLE IN THIS CASE AND TO STRESS TO TRADE DEPT AND TO OTHER APPROPRIATE GOI OFFICIALS WHO MAY HAVE BROADER OUT-

LOOK THAN MUSKITA AND SIREGAR FULL IMPLICATIONS OF
GOI'S RESPONSIBILITY FOR DISRUPTED AND POSSIBLY BREACHED

CONTRACT. SINCE IT UNLIKELY INDAUS AND PERTANI WOULD
AGREE TO ASSIGN CARGO WORTH ABOUT 4 MILLION DOLS BACK TO
CAMEO-NIXA OR TO PAY WHAT WILL BE LARGE DEMURRAGE
CHARGES, DEPT OF TRADE SHOULD BE ASKED IF IT WOULD
INTERPOSE ANY OBJECTIONS NOW TO AN OFFER BY INDAUS AND
PERTANI TO RENEGOTIATE PRICE AT A FIGURE HIGHER THAN
365 DOLS. KISSINGER

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